IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12335 of 2005

For Approval and Signature:

HON'BLE MR JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAGHUJI JAWANJI RATHOD - Petitioner(s)

Versus

STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR JV JAPEE for Petitioner No(s).: 1.

MR PR ABICHANDANI AGP for Respondent No(s).: 1, 2,3.

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CORAM : HON'BLE MR JUSTICE AKIL KURESHI

Date : 08/08/2005

ORAL JUDGMENT

1. Rule. Learned AGP Mr. P.R.Abichandani waives service of Rule on behalf of the respondents. At the joint

request of learned Advocates appearing for the parties, the petition is taken up for final disposal today.

2. In the present petition, the petitioner has challenged the order dated 15/6/2004 passed by the Collector, Gandhinagar rejecting the request of the petitioner for being alloted the plot of land for residential use on the ground that his request is belated.

3. It is the case of the petitioner i.e. Father Jawanji Rathod was owner of a piece of agricultural land admeasuring 3 acres and 8 gunthas in Village Borij, Taluka and District Gandhinagar. Upon acquisition of the said land for the purpose of developing Gandhinagar as a new capital of the State, the father of the petitioner lost the said land. It is the case of the petitioner that the State Government in order to rehabilitate such affected farmers had formulated a policy to allot a plot of land and shop in Gandhinagar to the affected farmers. The petitioner did not know about such a policy till the year 1995 and coming to know upon same, the petitioner applied to the Government on 1/6/1995 requesting the Government to allot a plot of land and a shop. The petitioner's application was turned down by an order

dated 22/11/1995 stating that the last date for giving the application for the plot was 14/8/1993. The petitioner made a detailed representation to the Government on 18/3/2000 and finally where no effective steps were taken, the petitioner filed Special Civil Application No.5032/2001 before this Court. This petition came to be disposed of by an order dated 18/2/2002 by which directions were issued to the respondents to consider the representation of the petitioner and decide the same as if the petitioner's application have been filed within time limit and to decide the representation in accordance with law within a specified time limit. The petitioner has stated that by an order dated 20th March, 2003, the petitioner has been alloted a shop. However, no plot was alloted to him and he, therefore, made an application on 22nd December, 2003 for allotment of plot also. This application came to be rejected by the authorities by the impugned order dated 15/6/2004. In the impugned order it is indicated that the application of the petitioner is belated and the same is, therefore, rejected.

3.Learned AGP appearing for the respondents has placed on record a copy of the resolution dated 14/8/1987 which inter alia provides for consideration for grant of any

one of the three benefits namely service in the Government or allotment of shop or agricultural land. In addition to the same, the Government had also decided to consider grant of residential plot of specified area at a concessional rate.

4. From the narration of the events and reading to the present petition, it can be seen that this Court had earlier directed the Government to consider the representation of the petitioner treating his application to have been made within time. The representation of the petitioner on 22nd December, 2003 was only in furtherance of his earlier representation and the same could not have been rejected as being time barred. When this Court has directed by its order dated 18/2/2002 to consider the case of the petitioner in accordance with law treating his application within time, the Collector erred in rejecting the request of the petitioner as one being time barred. The impugned order dated 15/6/2004 is, therefore, quashed, respondents are directed to consider the request of the petitioner as per the policy of the Government on merits and disposed of the same within a period of three months from the date of receipt of a copy of this order. With these directions, the petition is disposed of. Rule is made absolute to the above extent. With no order as to

costs.

(Akil Kureshi, J.)

smita/

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